

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT

IN RE:

DIANA KAYE GENTRY,

Debtor.

Case No. 09-36472-dof
Chapter 7 Proceeding
Hon. Daniel S. Opperman

Opinion Denying Motion of the Rayola O. Banfield Revocable Living Trust
to Intervene in Contested Matter and
Denying Motion of Debtor, Diana Kaye Gentry, to Remove Attorney and Strike Pleading

The Rayola O. Banfield Revocable Living Trust (“ROB Trust”) filed a Motion to Intervene in this action seeking to join the objection of Barbara Duggan to the claim of First National Bank of Howell. The Debtor filed a Motion to Remove Attorney and Strike Pleading for the ROB Trust.

The Court overruled the objection of Ms. Duggan to the proof of claim of First National Bank of Howell and an Order overruling her objection was entered on December 7, 2012. Since then, Ms. Duggan filed a Motion for Reconsideration of the Court’s Order. This Court has denied Ms. Duggan’s Motion for Reconsideration.

Accordingly, there is no present action that the ROB Trust can intervene. Moreover, since intervention is a permissive act, and there being no evidence that Ms. Duggan, who is represented by the same counsel as the ROB Trust, failed to make any appropriate argument to persuade the Court that her objection should be sustained, the addition of the ROB Trust would not add any additional merits to the case and is therefore not appropriate. Ms. Duggan’s Motion is denied.

As the ROB Trust is not allowed to intervene, there is no need to require Mr. Tindall to withdraw as counsel for the ROB Trust or strike the pleading filed by Mr. Tindall. The Court, therefore, denies the Debtor’s Motion to Remove Attorney and Strike Pleading.

Signed on March 05, 2013

/s/ Daniel S. Opperman

Daniel S. Opperman
United States Bankruptcy Judge